IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.891 OF 2006
IN
SUIT NO.452 OF 1983

Corporation Bank ....Plaintiff

V/s.

Narendra M. Mehta ....Defendant

Mr.D.G. Dhanore i/b M/s.M.V. Kini & Co. for the Plaintiff.

Mr.H.S.S. Murth i/b Mr.N.M. Shah for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 17TH JULY, 2007.

P.C. :

1. This Notice of Motion taken out by the Defendant is misconceived. The Defendant seeks a refund of the amounts allegedly due to him under certain fixed deposit receipts lying with the Plaintiff on the ground that the Plaintiff has illegally adjusted the value thereof towards the suit claim.

2. Even assuming that the same is true, the Defendant's remedy is by filing appropriate proceedings to recover the said amounts. At the highest, the Defendant could take it as defence at the

hearing of the suit. It is impossible to grant the reliefs claimed in the present Notice of Motion which would in effect amount to granting a decree against the Plaintiff in their own suit.

3. The Notice of Motion is dismissed.